

BUSINESS ASSOCIATE DECISION MODEL

If the Unit that contracts out is a HIPAA Covered Entity as part of the Hybrid status, AND the entity being contracted to is also a HIPAA CE, AND information exchange is for treatment, payment or normal business operations, then no business associate language is required. The exchange of information for treatment, payment or normal business operations between two covered entities have exclusion to the BA requirement.

If the Unit that contracts out is a HIPAA Covered Entity as part of the Hybrid status AND the entity contracting to is NOT a HIPAA CE then the business associate language is required providing the other entity is doing something the CE would have had to do involving protected health information. The other entity is the BA.

If the Unit that contracts out is not a part of the Hybrid HIPAA Covered Entity the contract does not require a BA addendum. But the reverse, contracting to an entity for some services, BA requirements follow the mandates placed on the other entity and they may require performing entity to sign a BA in some instances. This is a reverse BA

1. Unit contracting a CE?	No = STOP	Yes = Continue
2. Is other entity a CE?	Yes = STOP (Get Notice of Privacy Practice) No (but with PHI) = BA	
When the unit is covered and the other entity is not, and contract requires the use or disclosure of IIHI, the “other entity” BA language is required.		

TPO

Treatment: Provision, coordination, or management of health care and related services by one or more health care providers, including:

- Management of care by a provider with a third party;
- Consultation between health care providers relating to a individual; or
- Referral of a individual from one provider to another.

Payment: Activities undertaken to obtain or provide reimbursement for health care services, including:

- Billing, claims management, and collection activities;
- Review of health care services for medical necessity, coverage, appropriateness, or charge justification; or
- Utilization review activities.

Health Care Operations: Any of the following activities:

- Internal performance improvement activities, excluding research;
- Reviewing the competence or qualifications of health care professionals;
- Underwriting, premium rating, and other activities related to health insurance contracting;
- Medical review, legal services, and auditing;
- Business planning and development; or
- Business management and general administrative activities.